

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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City Boxing Club, a nonprofit corporation; City Athletic Boxing LLC, a limited-liability company; Armin Van Damme, an individual,

Case No. 2:23-cv-00708-JAD-DJA

Order

Plaintiffs,

V.

USA Boxing, Inc. dba USA Boxing, a nonprofit corporation; Scottsdale Insurance Company, a corporation; Nationwide Mutual Insurance Company dba Nationwide E&S, a corporation; K&K Insurance Group, Inc., a corporation; Michael McAtee, an individual; et al.,

Defendants.

Before the Court is Plaintiffs' motion to amend their complaint. (ECF No. 42). The only parties that responded are K&K Insurance Group, Inc. and Scottsdale Insurance Company. (ECF No. 43). K&K and Scottsdale assert that they do not oppose the amendment, but ask that the Court impose certain conditions on it. Plaintiffs agree to certain of the conditions, but oppose others. Because the parties agree on the amendment, the Court grants Plaintiffs' motion to amend and imposes certain of the conditions to which the parties agree.

I. Legal Standard.

Under Rule 15(a)(2) of the Federal Rules of Civil Procedure, “[t]he court should freely give leave [to amend] when justice so requires.” Fed. R. Civ. P. 15(a)(2). There is a strong public policy in favor of permitting amendment. *Bowles v. Reade*, 198 F.3d 752, 757 (9th Cir. 1999). The Ninth Circuit has made clear that courts should apply Rule 15(a) with “extreme liberality.” *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1051 (9th Cir. 2003).

1 **II. Discussion.**

2 Plaintiffs seek to amend their complaint now that the parties have engaged in discovery.
3 (ECF No. 42 at 4). Plaintiffs seek to remove certain Defendants, remove a cause of action, add a
4 party, add and revise certain factual allegations, and add certain causes of action. (*Id.*). K&K and
5 Scottsdale do not oppose the amendment, but ask that the Court impose conditions on Plaintiffs if
6 it allows them to amend their complaint. (ECF No. 43 at 2). K&K and Scottsdale propose the
7 following conditions:

- 8 • As far as filing responses to the SAC goes:
 - 9 ▪ K&K and Scottsdale should be permitted to file answers to
10 the SAC that assert general denials of the SAC's allegations
11 in lieu of requiring K&K and Scottsdale to undertake the
12 laborious effort of drafting answers that specifically admit or
13 deny of each of the extraordinary number of factual
14 allegations set forth in the 369 paragraphs of the SAC
15 pursuant to the requirements of Rule 8(b); or
 - 16 ▪ K&K and Scottsdale should be given 45 days from the date
17 the proposed SAC is filed to file responses to the proposed
18 SAC and Plaintiffs should be required to reimburse K&K
19 and Scottsdale for the reasonable attorneys' fees they will
20 have to incur to draft answers that specifically admit or deny
21 each of the factual allegations set forth in the 369 paragraphs
22 of the SAC.
- 23 • All existing dates/deadlines in the case schedule [see Doc. 40] will
24 be continued by at least 120 days to accommodate the fact that the
25 SAC brings an entirely new defendant into the case.
- 26 • Scottsdale will be permitted to serve Plaintiffs with up to a total of
27 40 interrogatories to obtain discovery on any of the allegations in
28 the SAC. (This is necessary because, as of today, Scottsdale has
 already used 24 of the 25 total interrogatories allowed by Rule
 33[()]).]
- 29 • K&K and Scottsdale will have an opportunity to take another
30 deposition of Plaintiffs Armin Van Damme and/or City Boxing Club
31 if either defendant deems it necessary to do so in light of the new
32 factual allegations set forth in the proposed SAC.
- 33 • Scottsdale will be allowed to exceed the 30-page limit for summary
34 judgment motions by 5 pages, thus increasing the page limit to 35
35 total pages (not including the caption page and any tables of contents

1 or authorities). This is necessary in light of fact that the proposed
2 SAC increases the number of causes of action alleged against
3 Scottsdale from seven to eight, and substantially increases the
4 number of factual allegations in the operative pleading from 151
5 paragraphs to 369 paragraphs.

6 (ECF No. 43 at 3-4).

7 Plaintiffs explain in reply that they are agreeable to certain of the conditions, but do not
8 agree to two. (ECF No. 44) First, Plaintiffs do not agree either that K&K and Scottsdale should
9 be allowed to either generally deny the second amended complaint allegations or that Plaintiffs
10 bear K&K and Scottsdale's attorney fees for answering the second amended complaint. Second,
11 Plaintiffs do not agree that K&K and Scottsdale should be permitted to depose Armin Van
12 Damme and/or City Boxing Club again.

13 **A. General denials or attorneys' fees.**

14 The Ninth Circuit has held that "a district court, in its discretion, may impose costs
15 pursuant to Rule 15 as a condition of granting leave to amend in order to compensate the
16 opposing party for additional costs incurred because the original pleading was faulty." *General*
17 *Signal Corp. v. MCI Telecommunications Corp.*, 66 F.3d 1500, 1514 (9th Cir. 1995) (citing
18 *Firchau v. Diamond Nat'l Corp.*, 345 F.2d 269, 275, (9th Cir. 1965) and *Local 783, Allied*
19 *Industrial Workers of America v. General Electric Co.*, 471 F.2d 751, 756 (6th Cir. 1973)). K&K
20 and Scottsdale argue that the Court should either allow them to generally deny the allegations in
21 the complaint or to allow them to recuperate their attorneys' fees expended in admitting or
22 denying each claim because of the length of Plaintiffs' proposed amendment. Plaintiffs argue
23 that, although its complaint is long, that does not justify imposing attorneys' fees or allowing
24 K&K to make general denials.

25 Plaintiffs have the better argument. K&K and Scottsdale do not argue that the original
26 complaint was faulty such that costs are justified. Nor do they assert that Plaintiffs are acting in
27 bad faith by amending their complaint. Their qualm instead rests with the work their attorneys
28 must do in responding to the amended complaint. But this is a common feature of litigation and
is not unique to this case such that Plaintiffs should be required to bear the costs K&K and
Scottsdale may incur in responding to the amended complaint. Additionally, K&K and Scottsdale

1 have not provided any authority for their request that the Court allow them to generally deny the
2 allegations in the complaint. The Court declines to impose this condition or the condition that
3 K&K and Scottsdale generally deny the allegations in the complaint. However, because Plaintiffs
4 do not oppose it, the Court will permit K&K and Scottsdale forty-five days to file their responsive
5 pleading.

6 ***B. Re-deposing Van Damme and/or City Boxing Club.***

7 Under Federal Rule of Civil Procedure 30(a)(2)(A)(ii), a party must seek leave of court to
8 depose a “deponent [who] has already been deposed in the case.” K&K and Scottsdale ask that
9 the Court grant them the ability to take another deposition of Van Damme and/or City Boxing
10 Club “if either defendant deems it necessary to do so in light of the new factual allegations set
11 forth in the proposed SAC.” (ECF No. 43 at 7). Plaintiffs argue that K&K and Scottsdale have
12 not made a sufficient showing for the Court to grant them leave to re-take the depositions of
13 either Van Damme or City Boxing Club. Plaintiffs add that, if K&K and Scottsdale later find the
14 need to take these depositions again, it is likely that the parties could stipulate to the deposition
15 given their good working relationship.

16 The Court finds Plaintiffs to have the better argument. The Court is not inclined to issue
17 an advisory opinion regarding depositions that might become necessary at a later date. The Court
18 thus declines to impose this condition.

19 ***C. Page limit extensions.***

20 While the parties do not dispute it, the Court declines to impose the condition that
21 Scottsdale exceed the page limit in its summary judgment motion. First, Scottsdale’s request
22 would require the Court to make an advisory opinion about the propriety of an extension under
23 Local Rule 7-3 without any specific argument regarding why that page limit is necessary. *See LR*
24 7-3(c) (“[a] motion to file a brief that exceeds these page limits will be granted only upon a
25 showing of good cause” and that motion “must be accompanied by a declaration stating in detail
26 the reasons for, and number of, additional pages requested.”). Second, the undersigned
27 magistrate judge may not finally determine motions for summary judgment and may only issue
28 findings and recommendations to the assigned district judge if a motion for summary judgment is

1 referred. *See* 28 U.S.C. § 636(b)(1)(A), (B). The undersigned is not inclined to decide the page
2 limits of a motion that may not even be before him and declines to impose this condition.

3 **D. *Extension of deadlines.***

4 The Court declines to impose the condition that all case deadlines be extended by 120
5 days because the parties have already agreed to, and the Court has granted, a stipulation to extend
6 time. (ECF No. 46). The Court finds that the already-granted 120 day extension moots this
7 condition.

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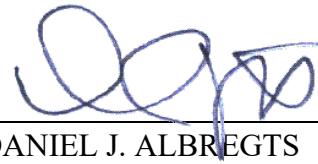
9 **IT IS THEREFORE ORDERED** that Plaintiffs' motion to amend (ECF No. 42) is
10 **granted**. Plaintiff shall file and serve its amended complaint as required under Local Rule 15-1.

11 **IT IS FURTHER ORDERED** that Scottsdale is permitted to serve Plaintiffs with up to a
12 total of forty interrogatories.

13 **IT IS FURTHER ORDERED** that K&K and Scottsdale's responsive pleading shall be
14 due forty-five days after they are served with the amended complaint.

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16 DATED: June 21, 2024



DANIEL J. ALBRECHTS
UNITED STATES MAGISTRATE JUDGE

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